

EGGERS -- 10/005,415

Client/Matter: 083022-0278802

REMARKS

Applicant respectfully requests reconsideration of the present application based on the foregoing amendments and the following remarks. Applicants have amended claims 1, 14, 27, 41 and 46. The claim amendments are fully supported by the Specification and add no new matter. Upon entry of this amendment, claims 1-53 will be pending in the application.

***Objection To The Title***

In the Office Action the Examiner requires amendment of the title to more clearly indicate the claimed invention. Applicant has amended the title accordingly.

***Objection To The Specification***

In the Office Action the Examiner objects to the Specification because updated information regarding related Patent Applications is required. Applicant has amended the Specification accordingly.

***Claim Rejections Under 35 U.S.C. 102***

In the Office Action, claims 1-53 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No.10/613,434 of Milosavljevic et al.

("Milosavljevic"). Applicants respectfully traverse the rejections.

Regarding claims 1, 14 and 27, each of these independent claims, as amended, requires a sample archive that includes a plurality of discrete sample nodes, each discrete sample node operative to carry a discrete sample. Milosavljevic does not teach a plurality of discrete sample nodes but instead teaches an array of probes and a sample that is applied to the array of probes. Specifically, Milosavljevic describes a system in which:

A microarray consists of an array of test sites formed on a suitable structure. One example of a microarray is shown in FIG. 5. DNA or RNA capture probes of known binding characteristics are attached to each of the test sites. The probes in each test site differ from the probes in other test sites in a known manner. A sample containing an unknown candidate molecule, such as a DNA molecule containing a SNP, is hybridized to the microarray containing the capture probe.

(Milosavljevic at [0094]). Elsewhere, Milosavljevic also teaches a configuration in which "DNA samples in the DNA Repository are stored on cards" and the samples are provided to a microarray for interrogation (Milosavljevic at [0100]). Thus, Milosavljevic teaches a common sample that is tested using a microarray consisting of multiple test sites and that the common sample can be stored on a card. However, Milosavljevic neither teaches nor

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suggests discrete sample nodes carrying discrete samples as required in the claims of the present Application.

Nor does Milosavljevic teach limitations associated with discrete sample nodes and discrete samples. For example, claim 1 as amended requires,

maintaining a sample archive comprising a plurality of *discrete sample nodes* each of said plurality of sample nodes *operative to carry a discrete sample*;

receiving a request for a biological analysis from a remote client; said request comprising *identification of a selected sample node* from said plurality of discrete sample nodes and identification of a selected assay;

responsive to said receiving, *retrieving said selected sample node* from said archive and preparing said selected assay; and

performing said selected assay for *said selected sample node*.

Milosavljevic does not teach or suggest selecting, identification and retrieving sample nodes nor the performing a selected assay for a selected sample node as required in claim 1.

Furthermore, Milosavljevic is further distinguished in other of the independent claims. For example, claim 27, as amended, requires that the plurality of sample nodes be supported on a plurality of sample carriers. The microarray taught in Milosavljevic is described as an array of test sites separate from the sample and therefore the microarray cannot reasonably be construed as a plurality of sample nodes (*see Milosavljevic* at [0094]). Even assigning *arguendo*, such construction to the microarray, Milosavljevic still does teach or suggest each of a plurality of sample nodes being removably attached to a corresponding sample carrier as required by claim 27. Milosavljevic merely teaches a plurality of test site locations on a card and nothing in Milosavljevic even suggests that these test sites can be attached and subsequently removed (*see Milosavljevic* at [0100]).

It is also respectfully submitted that independent claims 41 and 46 are patentable over Milosavljevic for reasons similar to those provided above. Amended claim 41 requires a sample node carrying a discrete sample, wherein the sample node is removably attached to a sample carrier. Milosavljevic teaches no such sample carrier, no such removably attached sample node and no such discrete sample. Amended claim 4 requires a sample that is carried in a respective sample node removably attached to an archive. Again, Milosavljevic teaches no such removably attached sample node.

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Other elements of the independent claims are not taught by Milosavljevic. As shown above, Milosavljevic lacks teachings directed to discrete sample nodes, sample nodes that are removably attached to a sample carrier and discrete samples. Consequently, it cannot be said that Milosavljevic teaches databases, processors, retrieval apparatus and assay preparation apparatus for managing, manipulating or otherwise processing discrete samples, discrete sample nodes, discrete sample nodes that are removably attached to a sample carrier. For example, Milosavljevic's teaching of a sample retrieval apparatus for retrieving a sample card does not teach the retrieval of a selected sample node that is removably attached to a sample carrier as required by claim 27.

For at least these reasons, Applicant respectfully submits that the rejections of independent claims 1, 14, 27, 41 and 46 should be withdrawn.

It is also submitted that the dependent claims are also allowable for at least the reason that the respective independent claims are also allowable. Nevertheless, the Office Action suggests that teaching the delivery of test results ([0095]) anticipates the packaging of sample nodes for shipping to a remote client. This suggestion is unsupported in Milosavljevic and is therefore erroneous. Specifically, Milosavljevic teaches "[a]fter the data is obtained, it is delivered in Step 245 to the Client for analysis..." ([0095]). Nowhere does Milosavljevic teach or suggest the delivery of samples to remote clients. Therefore, it is respectfully submitted that the rejection of claim 28 is improper and should be withdrawn.

Regarding claims 29-38, specific limitations are recited in the claims that pertain to aspects of the invention not taught by Milosavljevic. For example, as shown above, Milosavljevic does not teach sample carriers and sample nodes that are removably attached to a sample carrier. Therefore, Milosavljevic cannot be said to teach the limitations recited in claims 29-38.

For at least these reasons, Applicant respectfully submits that the rejections of claims 2-13, 15-26, 28-40 and 42-45 should be withdrawn.

***Claim Rejections Under 35 U.S.C. 103***

In the Office Action, alternative grounds of rejection are provided whereby claims 1-53 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Milosavljevic in view of U.S. Patent Application No. 10/617930 to Brignac et al ("Brignac"). Applicants respectfully traverse the rejections.

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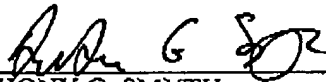
Brignac does not cure the deficiencies of Milosavljevic. Brignac, as cited in the Office Action, is directed to a sample preparation system in which an "individual DNA biological sample is punched out of each DNA biological specimen and then robotically delivered, for example, to a multiwell tray" ([0018]). As described throughout Brignac, the biological specimen is provided on a flexible substrate (*see, e.g.*, [0018]). Thus, Brignac does teach retrieving discrete sample nodes that carry discrete samples but rather describes the extraction of portions of a biological specimen from a substrate. Because Brignac does not teach, suggest or render obvious discrete sample nodes, sample nodes that are removably attached to a sample carrier and discrete samples, Brignac does not cure the deficiencies of Milosavljevic. Therefore, for at least these reasons, the §103 rejections of claims 1-53 should be withdrawn.

#### *Conclusion*

All objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition of allowance and a Notice to that effect is earnestly solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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